

UNITED STATES DISTRICT COURT

Southern

District of

New York

CAPITOL RECORDS, INC.,

SUMMONS IN A CIVIL ACTION

V.

CITY HALL RECORDS, INC., AND

ROBIN COHN,

CASE NUMBER: 07-CV-6488

CITY HALL RECORDS, INC.,
AND ROBIN COHN,

Third-Party Plaintiffs,

V.

AVID LTD., BODY & SOUL, COMET RECORDS,
HASMICK PROMOTIONS LTD., AND PROPER MUSIC DISTRIBUTION,

TO: (Name and address of Defendant)

Avid Ltd., 15 Metro Centre, Watfor, Herts, WD18 9UL
 Body & Soul, 26, Boulevard De Magenta, Paris 75010
 Comet Records, P.O. Box 201, La Spezia 19123
 Hasnick Promotions Ltd., Unit 8, Forest Hill, London SE23-2LX
 Proper Music Distribution, The New Powerhouse, Gateway Road, London SE26 5AN

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

LEWIS, BRISBOIS, BISGAARD & SMITH LLP
 199 Water Street, 25th Floor
 New York, NY 10038
 212-232-1300

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 U.S. DISTRICT COURT
 S.D.N.Y.

an answer to the complaint which is served on you with this summons, within 30 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

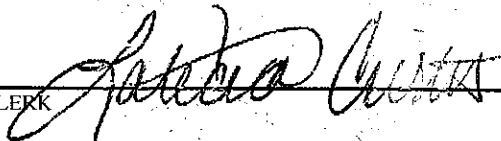
J. MICHAEL McMAHON

FEB 29 2008

CLERK

DATE

(By) DEPUTY CLERK



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
CAPITOL RECORDS, INC., a Delaware corporation,)

Plaintiff,)

- v -)

CITY HALL RECORDS, INC., a California corporation and)
ROBIN COHN,)

Defendants.)

----- X
CITY HALL RECORDS, INC., a California corporation and)
ROBIN COHN,)

Third-Party Plaintiffs,)

- v -)

AVID LTD., BODY & SOUL, COMET RECORDS,)
HASMICK PROMOTIONS LTD., and PROPER MUSIC)
DISTRIBUTION LTD.,)

Third-Party Defendants.)

ECF Case
07-cv-6488 (LTS) (KNF)

**THIRD-PARTY
COMPLAINT**

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Defendants/third-party plaintiffs CITY HALL RECORDS, INC. ("City Hall") and ROBIN COHN (collectively, "defendants/third-party plaintiffs") by their attorneys, LEWIS BRISBOIS BISGAARD & SMITH LLP, complaining of the third-party defendants AVID LTD., BODY & SOUL, COMET RECORDS, HASMICK PROMOTIONS LTD., and PROPER MUSIC DISTRIBUTION LTD., allege as follows:

PARTIES

1. Third-party plaintiff City Hall is a California corporation with a place of business at 101 Glacier Point, Suite C, San Rafael, CA 94901.

2. Third-party plaintiff Robin Cohn is the owner and principle of City Hall located at 101 Glacier Point, Suite C, San Rafael, CA 94901.

3. Upon information and belief, third-party defendant Avid Ltd. is a privately held corporation with its principal place of business in Watford, Hertfordshire, England. On information and belief, Avid sells certain recordings at issue in this litigation in the United States through various channels including its website at www.avidgroup.co.uk.

4. Upon information and belief, third-party defendant Body & Soul is a business entity of unknown form with a principal place of business in Paris, France. On information and belief, Body & Soul sells certain recordings at issue in this litigation in the United States through various channels.

5. Upon information and belief, third-party defendant Comet Records is a business entity of unknown form with a principal place of business in La Spezia, Italy. On information and belief, Comet sells certain recordings at issue in this litigation in the United States through various channels including its website at www.cometrecords.com.

6. Upon information and belief, third-party defendant Hasmick Promotions Ltd. is a privately held corporation with its principal place of business in London, England. On information and belief, Hasmick sells certain recordings at issue in this litigation in the United States through various channels.

7. Upon information and belief, third-party defendant Proper Music Distribution is a business entity of unknown form with a principal place of business in London, England. On information and belief, Proper sells certain recordings at issue in this litigation in the United States through various channels including its website at www.properdistribution.com.

JURISDICTION AND VENUE

8. Pursuant to 28 U.S.C. § 1367, jurisdiction of this Court over the subject matter of this third-party action and venue are supplemental to the jurisdiction and venue of the Court over the claims alleged in plaintiff's Second Amended Complaint.

9. This Court has personal jurisdiction over third-party defendants pursuant to NY CPLR § 302, because Defendants have transacted business within the state of New York, contracted to supply goods or services in the state of New York, and/or committed tortious acts without the state of New York causing injury to person or property within the state of New York.

10. On or about February 7, 2008, plaintiff Capitol Records, Inc. ("Capitol" or "Plaintiff") filed an Amended Complaint against defendants/third-party plaintiffs, a copy of which is attached hereto as Exhibit A (the "Amended Complaint").

FACTS

11. Plaintiff alleges that defendants/third-party plaintiffs regularly advertise, offer for sale, promote, exploit and otherwise distribute, for commercial advantage and private financial gain, within the state of New York and elsewhere, sound recordings that infringe upon common law copyrights owned by or licensed to Plaintiff. Allegedly, defendants/third-party plaintiffs have also used Capitol's federally registered trademarks in promoting the sale of the infringing sound recordings without any rights, licenses or authorization thereto of any sort. Allegedly, defendants/third-party plaintiffs are infringing on the trademarks with knowledge of the likelihood of confusion and dilution to Plaintiff's trademarks, and with knowledge that such confusion and dilution would cause harm to Capitol.

12. Allegedly, the aforementioned infringing activity resulted in unfair competition and unjust enrichment.

13. Capitol further alleges that the infringing sound recordings are manufactured by companies that have no legal right to manufacture or distribute the recordings within the United States.

14. Third-Party Defendants are manufacturers and/or current and former suppliers to defendants/third-party plaintiffs of the allegedly infringing sound recordings.

15. Upon information and belief, to the extent there was any infringement, third party defendants caused, or materially contributed to the sale of infringing sound recordings and use of infringing trademarks by defendants/third party plaintiffs, and the unfair competition, consumer confusion, trademark dilution, and unjust enrichment that resulted as a consequence. To the extent that there was any infringing activity, the third-party defendants acted with knowledge of the infringing activity.

COUNT I
INDEMNIFICATION

16. Defendants/third-party plaintiffs repeat and reallege each and every allegation contained in paragraphs "1" through "15" of this Third Party Complaint.

17. If, as alleged by Plaintiff, defendants/third party plaintiffs infringed Plaintiff's common law copyrights and trademarks, and unfairly competed with plaintiff in violation of New York law, causing Plaintiff to sustain damages as alleged in the Amended Complaint, then said damages were sustained by reason of the wrongful acts of third-party defendants in having caused the manufacturing and/or distribution and sale of goods infringing plaintiff's copyrights and purported trademark.

COUNT II
CONTRIBUTION

18. Defendants/third-party plaintiffs repeat and reallege each and every allegation contained in paragraphs "1" through "17" of this Third Party Complaint.

19. If, or to the extent that defendants/third party plaintiffs are liable to Plaintiff for any of Plaintiff's losses suffered as a result of the alleged infringements and unfair competition, then, pursuant to N.Y. Civil Practice Law and Rules § 1401, third-party defendants will be, or may be, liable to contribute to defendants/third party plaintiffs an amount equal to their equitable share apportioned according to fault of any recovery granted to Plaintiff as a result of their culpable conduct.

WHEREFORE, the defendants/third-party plaintiffs demand judgment against the third-party defendants for indemnity for the full amount of any recovery by Plaintiff CAPITOL RECORDS, INC. against the third-party plaintiffs and/or apportionment of liability and contribution for any recovery Plaintiff obtains against defendants/third-party plaintiffs together with costs and disbursements of this action.

JURY DEMAND

Defendants demand a trial by jury of all causes of action as to which the law entitles them to a trial by jury.

Dated: New York, New York
February 29, 2008

Respectfully submitted,



Jura C. Zibas (JZ 8970)

Joanne J. Romero (JR 0275)

LEWIS BRISBOIS BISGAARD & SMITH LLP

199 Water Street, 25th Floor

New York, New York 10038

Tel.: (212) 232-1300

Fax.: (212) 232-1399

Attorneys for City Hall Records, Inc. and Robin Cohn

File No. 27350-95 Capitol Records, Inc. v. City Hall Records, Inc., United States District Court, Southern District of New York Case No. 07 CV 6488 (LTS) (KNF)

AFFIDAVIT OF SERVICE BY OVERNIGHT MAIL (FEDERAL EXPRESS)

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Nancy Rivera, being duly sworn, deposes and says:

I am not a party to this action, am over 18 years of age and I reside in the State of New York, County of New York.

That on the 29th day of February, 2008, I served a true copy of the annexed **THIRD-PARTY COMPLAINT** upon the following:

Matthew J. Oppenheim
Oppenheim Group
Attorney for Plaintiff
7304 River Falls Drive
Potomac, MD 20854
Tel. (301) 299-4986
Fax (866) 766-1678

by depositing same enclosed in a federal express envelope and dropped off at a Federal Express location within the State of New York.

Nancy Rivera
Nancy Rivera

Sworn to before me this
29th day of February, 2008

29th day of February, 2008
Walter J. Jupp
 Notary Public

MAUREEN STAMPP
NOTARY PUBLIC, State of New York
No. 02ST5014512
Qualified in Queens County
Commission Expires July 15, 2011